

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ORDER
04-CR-30A

SAKHWAT ULLAH, JR.,

Defendant.

The defendant, Sakhwat Ullah, Jr., is charged in a two-count indictment with violating 8 U.S.C. § 1326(a) (attempted reentry by an alien previously deported) and 18 U.S.C. § 1001 (false statement to the United States government). Both charges stem from the defendant's attempt to enter the United States from Canada on December 22, 2003.

Trial on this matter is scheduled to commence on September 6, 2006. On July 31, 2006, the defendant, who is proceeding *pro se* in this criminal matter, filed motions for severance, dismissal of the indictment on speedy trial grounds, for an evidentiary hearing relating to the validity of this deportation order, for appointment of an a private investigator and expert witness, and for recusal of this Court.

Defendant's motions for severance, dismissal of the indictment on speedy trial grounds, for an evidentiary hearing and for recusal of this Court are denied. The Court finds no merit to those motions, either for the reasons previously articulated by this Court and/or for the reasons set forth in the government's responding memorandum.

With regard to the defendant's motion for appointment of a private investigator and/or an expert witness, the defendant seeks permission to retain a private investigator and to retain an expert witness and for payment of those services under the Criminal Justice Act, 18 U.S.C. § 3006A(e)(1). In order for the Court to grant that motion, the Court must find that the services of an investigator and an expert witness are "necessary" to the defendant's defense. Id.

The Court is unable to ascertain why the services of an expert or an investigator are necessary. Accordingly, the motion is denied without prejudice. The defendant may renew his motion and provide the Court with more specific information regarding the services sought to be obtained, the identify of the proposed investigator and/or expert witness, the nature of the services to performed by those individuals, whether they intend to testify at trial and, if so, how their testimony is relevant to the issues in this case. The Court will reconsider the issue upon renewal of the motion.

Trial will proceed as scheduled on September 6, 2006.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: August 14 , 2006